IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 25147 of 2014

M/s. GAIL (India) Ltd.,
Rep. by its Deputy Manager,
Adiyakkamangalam,
Tiruvarur Taluk. ...Petitioner

-vs-

The Commercial Tax Officer,
Nagapattinam Assessment Circle,
Nagapattinam. ...Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Respondent herein in TIN.33043900682/2006-07 and quash the order dated 23.06.2014 passed therein and further direct the Respondent to comply with the order of the Tamil Nadu Sales Tax Appellate Tribunal (Main Bench), Chennai in T.A. No. 23/2010 dated 21.04.2011 and assess the disputed turnover of Rs.82,93,35,914/- @ 4% and refund the excess collected and remitted or ITC availed by the Petitioner as the Petitioner has given undertaking to refund the same to the customers within three months and also grant appropriate relief in respect of the tax amount of Rs. 6,08,052/-.

For Petitioner : Ms. P.Aishwarya
for Mr. Jospeh Prabhakar

For Respondent : Mr. A.N.R.Jayaprathap,
Government Advocate (Taxes)

O R D E R
(through video conference)

Heard Ms. P.Aishwarya, Learned Counsel for the Petitioner and Mr. A.N.R.Jayaprathap, Learned Government Advocate (Taxes) appearing for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Respondent had passed Order No. TIN. 3304 3900682/2006-2007 dated 23.06.2014 under the provisions of Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the 'TNVAT Act' for short) in respect of the Petitioner, who had received the copy of the order on 27.06.2014. The Petitioner was entitled to prefer appeal against the order under Section 51 of TNVAT Act, within a period of 30 days from the date of its receipt before the Appellate Authority, who has been empowered to condone delay in filing such appeal for an extended period of 30 days, if sufficient cause for not preferring appeal within that period is made out. However, the Petitioner did not prefer any such appeal before the Appellate Authority, but has instead filed the Writ Petition on 15.09.2014 challenging the order passed by the Respondent beyond the maximum limitation period of 60 days from the date of receipt of copy of that order.

3. The Hon'ble Supreme Court of India in Assistant Commissioner (CT) LTU, Kakinada -vs- Glaxo Smith Kline Consumer Health Care Limited (Order dated 06.05.2020 in Civil Appeal No. 2413 of 2020) has emphatically laid down that the High Court in the exercise of powers under Article 226 of the Constitution of India ought not to entertain Writ Petition assailing the order passed by a Statutory Authority which was not appealed against within the maximum period of limitation before the concerned Appellate Authority. Having regard to that legal position, it is not possible for this Court to express any view on the correctness or otherwise on the merits of the controversy involved in the matter.

4. In the result, the Writ Petition, which cannot be entertained, is dismissed. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

vjt

To

The Commercial Tax Officer,
Nagapattinam Assessment Circle,
Nagapattinam.

+1cc to Special Government Pleader SR.No.40620

W.P. No. 25147 of 2014

SRII(CO)
RN(16/12/2020)